

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND

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GLORIA WELLBROCK,

Plaintiff,

**VERIFIED  
COMPLAINT**

-against-

Index No.:

THE CITY OF NEW YORK,

Defendant.  
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Plaintiff, by her attorneys, GEORGAKLIS & MALLAS PLLC, complaining of the defendant, at all times hereinafter mentioned, upon information and belief, allege as follows:

**AS AND FOR A FIRST CAUSE OF ACTION**

1. At all times hereinafter mentioned, defendant, THE CITY OF NEW YORK, was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

2. Prior to the commencement of this action, and on October 21, 2012, plaintiff duly filed with defendant, THE CITY OF NEW YORK a written, verified Notice of Claim setting forth the time when and the place where the accident occurred, which is the subject of this lawsuit, the nature and extent of the injuries and damages sustained, and the amount claimed.

3. Such claim was presented within ninety (90) days after the cause of action herein accrued.

4. More than thirty (30) days have elapsed since the presentation of said claim, and defendant, THE CITY OF NEW YORK, has not adjusted the same and has failed and neglected to make any payment of such claim and cause of action.

5. On January 28, 2013, plaintiff, GLORIA WELLBROCK, testified at a Section 50-h hearing, pursuant to the General Municipal Law, at the request of the defendant, THE CITY OF NEW YORK.

6. This lawsuit is being commenced within a year and ninety (90) days of the accrual of this action.

7. On August 16, 2012, defendant, THE CITY OF NEW YORK, employed BRIAN MULLARKEY as a New York City Policy Officer.

8. On August 16, 2012, defendant, THE CITY OF NEW YORK owned a certain 2011 Chevy motor vehicle bearing New York State license plate number 3524.

9. On August 16, 2012, defendant, THE CITY OF NEW YORK leased the aforementioned vehicle.

10. On August 16, 2012, defendant, THE CITY OF NEW YORK maintained the aforementioned motor vehicle.

11. On August 16, 2012, defendant, THE CITY OF NEW YORK controlled the aforementioned motor vehicle.

12. On August 16, 2012, defendant, THE CITY OF NEW YORK repaired the aforementioned motor vehicle.

13. On August 16, 2012, Police Officer, BRIAN MULLARKEY operated the aforementioned vehicle.

14. On August 16, 2012, Police Officer, BRIAN MULLARKEY operated the aforementioned vehicle with the permission and consent of THE CITY OF NEW YORK.

15. On August 16, 2012, employee, BRIAN MULLARKEY operated the aforementioned vehicle within the scope of his employment as a New York City Police Officer.

16. On August 16, 2012, GLORIA WELLBROCK was operating a 2010 Toyota bearing New York license plate number DXE7536.

17. On August 16, 2012, on or about the intersection of Castleton Avenue and Bard Avenue, in the County of Richmond, City and State of New York was a public thoroughfare.

18. On August 16, 2012, at approximately 8:40 PM, defendant was operating the aforementioned 2011 Chevy at the aforesaid location.

19. On August 16, 2012, at approximately 8:40 PM, plaintiff, GLORIA WELLBROCK was operating the aforementioned 2010 Toyota at or about the aforesaid location.

20. On August 16, 2012, the motor vehicle owned by defendant, THE CITY OF NEW YORK, and operated by Police Officer BRIAN MULLARKEY came into contact with the motor vehicle operated by plaintiff, GLORIA WELLBROCK.

21. The aforementioned contact was caused by reason of the negligence, carelessness and recklessness of the defendant in their ownership, operation, maintenance, management, repair and control of the aforesaid 2011 Chevy motor vehicle.

22. That defendant, through its agents, servants and employees including but not limited to Police Officer BRIAN MULLARKEY, was negligent and indulged in culpable conduct by reason of the recklessness and carelessness in the ownership, operation, maintenance, management and control of their aforesaid motor vehicles; in failing to properly maintain, repair and care for the aforesaid motor vehicle; in failing to have same under reasonable and proper control; in failing to keep a proper lookout upon a highway; in failing to

give due and proper warning of the movements of said motor vehicle; in failing to heed traffic controls; in failing to signal or give signals; in failing to afford the plaintiff a reasonable opportunity to reach a place of safety; in operating the motor vehicle as to cause the same to come into contact with such objects and/or such persons as involved in said accident; in so operating the motor vehicle as to cause the same to be in such a position on the roadway as to endanger the safety to others; in failing to see; in failing to see that which was there to be seen; in operating said motor vehicle at such speeds at said location as to cause the same to be of danger to others, and in violating the statutes, ordinances and regulations, of which the Court will take Judicial notice, in such cases made and provided.

23. By reason of the foregoing, plaintiff GLORIA WELLBROCK was injured.

24. By reason of the foregoing, plaintiff GLORIA WELLBROCK was seriously injured.

25. The exemptions set forth in CPLR §1601 do not apply by reason of one or more of the exemptions set forth in CPLR §1602.

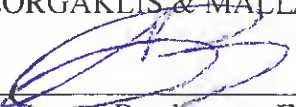
26. By reason of the foregoing, plaintiff GLORIA WELLBROCK sustained a serious injury as defined in §5102(d) of the Insurance Law of the State of New York and/or economic losses defined by §5102(a) of the Insurance Law of the State of New York.

27. By reason of the foregoing, plaintiff GLORIA WELLBROCK has sustained damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower Courts to be decided by a jury at the time of trial.

**WHEREFORE**, plaintiff GLORIA WELLBROCK demands judgment against the defendants in this cause of action in an amount that exceeds the jurisdictional limits of all lower Courts to be decided by a jury at the time of trial together with the costs and disbursements of this action.

Dated: Brooklyn, New York  
October 2, 2013

GEORGAKLIS & MALLAS, PLLC

  
By: George Batchvarov, Esq.  
Attorneys for Plaintiff  
9118 Fifth Avenue  
Brooklyn, New York 11209  
(718) 238-2400

**VERIFICATION**

George Batchvarov, Esq., an attorney duly admitted to practice in the State of New York affirms the following under penalties of perjury:

I am an associate at the law firm of Georgaklis & Mallas, PLLC, attorneys for the plaintiff in the captioned action. I have read the foregoing and know the contents thereof. Upon information and belief, I believe the matters alleged therein to be true.

The reason this Verification is made by me and not by plaintiff is that the plaintiff resides in a county other than the one in which the plaintiff's attorneys' maintain their offices.

The source of my information and the grounds for my beliefs are communications, papers, reports and investigations contained in the litigation file.

Dated: Brooklyn, New York  
October 2, 2013

  
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GEORGE BATCHVAROV